



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 6770-99

11 May 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) NPC Memo Pers 911 of 16 Dec 99
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former officer in the United States Naval Reserve filed enclosure (1) with this Board requesting, in effect, that he receive retirement points and pay for drills in 1997 and that he be paid for drills in March 1999.

2. The Board, consisting of Mr. Brezna, Mr. Zsalman and Mr. Adams, reviewed Petitioner's allegations of error and injustice on 25 April 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. On 9 August 1988 Petitioner was commissioned as a LTJG (O-2) in the Chaplains Corps of the Naval Reserve, and was subsequently promoted to LT (O-3). The record shows that he participated as a drilling reservist for about nine years. He was honorably discharged on 31 August 1997 because he had twice failed of selection to LCDR (O-4).

d. Petitioner states that he accepted a position as pastor of a Lutheran Church in Guam, to be effective in January 1997, and could no longer drill with his unit in Missouri. He further states that he drilled with a unit on Guam beginning in March 1997 on an informal basis with the understanding that he would be given credit for those drills when orders were issued. In

addition, in March 1997, he was informed that discharge action was pending since he had twice failed of selection to the grade of LCDR. He contends, in effect, that he did not clearly understand his status and attempted to have his commission reinstated. As indicated, he was honorably discharged on 31 August 1997. Inexplicably, on 23 February 1999, he was issued orders assigning him in a drill pay status on an additional duty basis to a reserve unit in Guam. According to Petitioner, he believed that his efforts to have his commission reinstated had been successful and he attended the March drill with the expectation of being paid. On 18 March 1999 the orders were canceled because they had been issued in error.

e. At enclosure (2) is an advisory opinion from the Naval Reserve Personnel Administrative Division (Pers 911), Navy Personnel Command which recommends that Petitioner's request be denied. The advisory opinion states, in part, as follows:

(Petitioner) acknowledges in his petition that he received both our letter notifying him of his status in the Naval Reserve and Naval Reserve Personnel Center's letter of discharge. Our letter clearly states his pending discharge and the termination of his inactive duty training orders, 31 August 1997. (The) Naval Reserve Personnel Center's letter plainly states his discharge date, Undoubtedly (Petitioner) was aware of his discharge status. If he participated in any reserve activities after being discharged, then he did so knowing he was a civilian and is not entitled to any military compensation. The inactive duty training orders were clearly in error and were canceled 23 days after they were issued. ... Because he had prior personal knowledge of his discharge status we can find no justification to compensate him for any participation after 31 August 1997.

Concerning Petitioner's request for drill credits during the period January to August 1997, the advisory opinion states as follows:

Our records do not indicate any active participation for (Petitioner) after December 1996. Recommend he provided any documentation of drills performed prior to his discharge to Commander, Naval Reserve Force.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. Concerning the drills in March 1999, the Board notes

that as a chaplain, Petitioner probably is not knowledgeable about Naval Reserve matters. Along those lines, the Board believes that it was reasonable for him to assume that his efforts to have his commission reinstated had been successful since he received orders. Therefore, the Board concludes that he should be paid for the four drills in March 1999. Since Petitioner's discharge on 31 August 1997 was statutorily required because of his failures of selection, the Board further concludes that the four paid drills should be credited as if they occurred in August 1997, prior to his discharge.

Concerning the drills he allegedly performed during the period March to August 1997, the Board notes that apparently he has never submitted evidence that he attended those drills to the Commander, Naval Reserve Force as suggested in the advisory opinion. Additionally, there is no evidence that he has been denied credit for those drills. Further, even if he attended such drills, they could have been either pay or nonpay drills. Therefore, the Board declines to take any action on this request and it should be the subject of a separate application to the Board when all other administrative actions have been completed.

The Board further concludes that this Report of Proceedings should be filed in Petitioner's naval record so that all future reviewers will understand the reasons for the paid drills in August 1997.

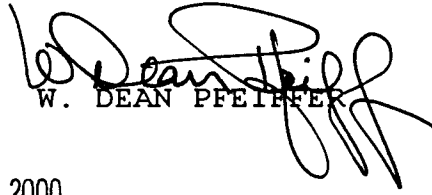
RECOMMENDATION:

- a. That Petitioner's naval record be corrected to show that he performed four paid drills in August 1997.
- b. That no action be taken on the remainder of his requests at this time.
- c. That this Report of Proceedings be filed in Petitioner's naval record.
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


ALAN E. GOLDSMITH
Acting Recorder

5. The foregoing report of the Board is submitted for your review and action.


W. DEAN PFEIFFER

Reviewed and approved: JUN 14 2000



CHARLES L. TOMPKINS
Deputy Assistant Secretary of the Navy
(Personnel Programs)